

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

)
KATIE MILILLO, IRENE JOHNSON)
JANINE HELLER and TOMAYITA)
STEVENSON,)
Plaintiffs,)
v.)
WHITMAN EDUCATION GROUP,)
INC., CAREER EDUCATION)
CORPORATION, ULTRASOUND)
DIAGNOSTIC SCHOOL and)
LOUIS GIANNELLI,)
Defendants.)
) CIVIL ACTION NO. 04-30130-MAP

**DEFENDANT LOUIS GIANNELLI'S MOTION
TO DISMISS COUNTS II AND V OF THE PLAINTIFFS' COMPLAINT**

Pursuant to Fed.R.Civ.P. 12(b)(6), Defendant Louis Giannelli hereby moves to dismiss Count II and Count V of the Plaintiffs' Complaint on the following grounds:

1. Plaintiffs fail to state a claim upon which relief may be granted in Count II of the Complaint. As a matter of law, Title VII does not impose liability on individual employees like Mr. Giannelli.
2. Plaintiffs Milillo and Johnson fail to state a claim of constructive discharge in violation of public policy in Count V of the Complaint. Plaintiffs fail to identify a single law or regulation governing a private school's admission and grading policies. Nor have the Plaintiffs articulated a non-statutory public policy violated by the Defendants' alleged conduct. As such, Plaintiffs Milillo and Johnson have failed to state a claim.

The grounds for this motion are set forth in full in Defendant Giannelli's Memorandum in Support of his Partial Motion to Dismiss Plaintiffs' Complaint which is filed herewith.

WHEREFORE, Defendant Giannelli respectfully requests that this Court dismiss Counts II and Count V against him.

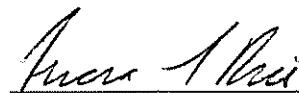
Request for Oral Argument

Defendant Giannelli respectfully requests oral argument on this Motion.

Respectfully submitted,

LOUIS GIANNELLI

By his attorneys,



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